

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

WHAM-O HOLDING, LTD. and
INTERSPORT CORP. d/b/a WHAM-O,

Plaintiff,

v.

THE PARTNERSHIPS AND
UNINCORPORATED ASSOCIATIONS
IDENTIFIED ON SCHEDULE “A”,

Defendants.

Case No. 24-cv-01473

Judge Virginia M. Kendall

Magistrate Judge Sunil R. Harjani

PRELIMINARY INJUNCTION ORDER

Plaintiffs, WHAM-O HOLDING, LTD. and INTERSPORT CORP. d/b/a WHAM-O (“WHAM-O” or “Plaintiffs”) filed a Motion for Entry of a Preliminary Injunction against the against the fully interactive, e-commerce stores operating under the seller aliases identified in Schedule A to the Complaint and attached hereto (collectively, “Defendants”) and using at least the online marketplace accounts identified in Schedule A (the “Defendant Internet Stores”). After reviewing the Motion and the accompanying record, this Court GRANTS WHAM-O’s Motion as follows.

This Court finds WHAM-O has provided notice to Defendants in accordance with the Temporary Restraining Order entered February 28, 2024, [20] (“TRO”), and Federal Rule of Civil Procedure 65(a)(1).

This Court also finds, in the absence of adversarial presentation, that it has personal jurisdiction over Defendants because Defendants directly target their business activities toward consumers in the United States, including Illinois. Specifically, WHAM-O has provided a basis to conclude that Defendants have targeted sales to Illinois residents by

setting up and operating e-commerce stores that target United States consumers using one or more seller aliases, offer shipping to the United States, including Illinois, and have sold products using infringing and counterfeit versions of WHAM-O's federally registered trademarks, which are protected by U.S. Trademark Registration Nos. 4,046,202; 970,089 and 679,186 (the "FRISBEE Trademarks") to residents of Illinois. In this case, WHAM-O has presented screenshot evidence that each Defendant e-commerce store is reaching out to do business with Illinois residents by operating one or more commercial, interactive internet stores through which Illinois residents can and do purchase products using counterfeit versions of the FRISBEE Trademarks. *See* Docket No. [15], which includes screenshot evidence confirming that each Defendant e-commerce store does stand ready, willing and able to ship its counterfeit goods to customers in Illinois bearing infringing and/or counterfeit versions of the FRISBEE Trademarks.

This Court also finds that the injunctive relief previously granted in the TRO should remain in place through the pendency of this litigation and that issuing this Preliminary Injunction is warranted under Federal Rule of Civil Procedure 65. Evidence submitted in support of this Motion and in support of WHAM-O's previously granted Motion for Entry of a TRO establishes that WHAM-O has demonstrated a likelihood of success on the merits; that no remedy at law exists; and that WHAM-O will suffer irreparable harm if the injunction is not granted.

Specifically, WHAM-O has proved a *prima facie* case of trademark infringement because (1) the FRISBEE Trademarks are distinctive marks and are registered with the U.S. Patent and Trademark Office on the Principal Register, (2) Defendants are not licensed or authorized to use any of the FRISBEE Trademarks, and (3) Defendants' use of the

FRISBEE Trademarks is causing a likelihood of confusion as to the origin or sponsorship of Defendants' products with WHAM-O. Furthermore, Defendants' continued and unauthorized use of the FRISBEE Trademarks irreparably harms WHAM-O through diminished goodwill and brand confidence, damage to WHAM-O's reputation, loss of exclusivity, and loss of future sales. Monetary damages fail to address such damage and, therefore, WHAM-O has an inadequate remedy at law. Moreover, the public interest is served by entry of this Preliminary Injunction to dispel the public confusion created by Defendants' actions. Accordingly, this Court orders that:

1. Defendants, their officers, agents, servants, employees, attorneys, and all persons acting for, with, by, through, under, or in active concert with them be preliminarily enjoined and restrained from:
 - a. using the FRISBEE Trademarks or any reproductions, counterfeit copies, or colorable imitations in any manner in connection with the distribution, marketing, advertising, offering for sale, or sale of any product that is not a genuine WHAM-O product or not authorized by WHAM-O to be sold in connection with the FRISBEE Trademarks;
 - b. passing off, inducing, or enabling others to sell or pass off any product as a genuine WHAM-O product or any other product produced by WHAM-O, that is not WHAM-O's or not produced under the authorization, control, or supervision of WHAM-O and approved by WHAM-O for sale under the FRISBEE Trademarks;
 - c. committing any acts calculated to cause consumers to believe that Defendants' products are those sold under the authorization, control, or supervision of

WHAM-O, or are sponsored by, approved by, or otherwise connected with WHAM-O; and

- d. manufacturing, shipping, delivering, holding for sale, transferring or otherwise moving, storing, distributing, returning, or otherwise disposing of, in any manner, products or inventory not manufactured by or for WHAM-O, nor authorized by WHAM-O to be sold or offered for sale, and which bear any of WHAM-O's trademarks, including the FRISBEE Trademarks, or any reproductions, counterfeit copies, or colorable imitations.
2. Defendants shall not transfer or dispose of any money or other of Defendants' assets in any of Defendants' financial accounts.
3. Upon WHAM-O's request, Defendants and any third party with actual notice of this Order who is providing services for any of Defendants, or in connection with any of Defendants' Defendant Internet Stores, including, without limitation, any online marketplace platforms such as eBay, Inc. ("eBay"), PayPal, inc. ("PayPal"), and Amazon Payments, Inc. ("Amazon") (collectively, the "Third Party Providers"), shall, within seven (7) calendar days after receipt of such notice, provide to WHAM-O expedited discovery, limited to copies of documents and records in such person's or entity's possession or control sufficient to determine:
 - a. the identities and locations of Defendants, their officers, agents, servants, employees, attorneys, and any persons acting in active concert or participation with them, including all known contact information and all associated e-mail addresses;

- b. the nature of Defendants' operations and all associated sales, methods of payment for services, and financial information, including, without limitation, identifying information associated with the Defendant Internet Stores and Defendants' financial accounts, including Defendants' sales and listing history related to their respective Defendant Internet Stores; and
 - c. any financial accounts owned or controlled by Defendants, including their officers, agents, servants, employees, attorneys, and any persons acting in active concert or participation with them, including such accounts residing with or under the control of any banks, savings and loan associations, payment processors or other financial institutions, including, without limitation, eBay, PayPal, and Amazon, or other merchant account providers, payment providers, third party processors, and credit card associations (e.g., MasterCard and VISA).
4. Upon WHAM-O's request, those with notice of this Order, including the Third Party Providers as defined in Paragraph 3, shall within seven (7) calendar days after receipt of such notice, disable and cease displaying any advertisements used by or associated with Defendants in connection with the sale of counterfeit and infringing goods using the FRISBEE Trademarks.
5. Any Third Party Providers, including eBay, PayPal, and Amazon, shall, within seven (7) calendar days of receipt of this Order:
 - a. locate all accounts and funds connected to Defendants' seller aliases, including, but not limited to, any financial accounts connected to the information listed in Schedule A hereto, the e-mail addresses identified in Exhibit 2 to the Declaration

of Kurt Rios, and any e-mail addresses provided for Defendants by third parties;

and

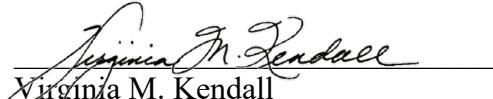
- b. restrain and enjoin any such accounts or funds from transferring or disposing of any money or other of Defendants' assets until further order by this Court.

6. WHAM-O may provide notice of the proceedings in this case to Defendants, including service of process pursuant to Fed. R. Civ. P. 4(f)(3), and any future motions, by electronically publishing a link to the Complaint, this Order, and other relevant documents on a website or by sending an e-mail with a link to said website to the e-mail addresses identified in Exhibit 2 to the Declaration of Kurt Rios and any e-mail addresses provided for Defendants by third parties. The Clerk of the Court is directed to issue a single original summons in the name of "acutastore and all other Defendants identified in the Complaint" that shall apply to all Defendants. The combination of providing notice via electronic publication or e-mail, along with any notice that Defendants receive from payment processors, shall constitute notice reasonably calculated under all circumstances to apprise Defendants of the pendency of the action and afford them the opportunity to present their objections.

7. Plaintiffs' Schedule A to the Complaint [2], Exhibit 2 to the Declaration of Kurt Rios
- [15], and the TRO [20] are unsealed.
8. Any Defendants that are subject to this Order may appear and move to dissolve or modify the Order as permitted by and in compliance with the Federal Rules of Civil Procedure and the Northern District of Illinois Local Rules. Any third party impacted by this Order may move for appropriate relief.

9. The ten thousand dollar (\$10,000) bond posted by WHAM-O shall remain with the Court until a final disposition of this case or until this Preliminary Injunction is terminated.

SO ORDERED



Virginia M. Kendall
United States District Judge

Dated: 3/27/2024

Schedule A

No	Defendants
1	acutastore
2	alexas345
3	Alytha
4	b.kakan
5	becomall12
6	begonia-0603
7	bestone978
8	bkr.store
9	bonbon_games
10	buysmartevavalsan
11	comeupbuy
12	cooljapan-tsushu0
13	dinganquezhishan_0
14	dongchaojie
15	eplacesolution-2
16	erai9660
17	faeistore
18	feicha-9105
19	flyingchannel
20	g-luckyhome
21	hierward2
22	hot_costumes
23	jablack2020
24	janiyam-7
25	joyoftoys
26	kain2608
27	kalavid
28	kxqhm_37
29	lal_kus
30	lokd862
31	low_key088
32	martialey-0
33	mayorsports
34	meirben09
35	millionaire_101
36	mssureshkum0
37	nabeel.r56
38	ng_3509
39	ohanshar
40	ozgurstore
41	rongz-69
42	rugenshopping
43	ruiyangfa8190
44	safe_seller365
45	sah_creatives

46	sevenspiritualgifts
47	shiji-sport
48	shoppings-09141
49	shreeenterprises_0
50	smartyiwu
51	storesatisfactory
52	syedqab_18
53	tezzz1207
54	thelittleparcel
55	tuncel87
56	wmkstore
57	youcho-421
58	ysqdzsw
59	yucheng-2023
60	ywxiewa-93
61	zkom40
62	animes moll
63	Anwqr
64	Avaner
65	AYNKH.
66	Balonta
67	Bian Yalong
68	bouncevi
69	cao jun xiong
70	CFamily
71	cheng han
72	ChengQIToy
73	chivalrylist
74	CIOKUO
75	Cloudwinner
76	DEV COLLECTION
77	Dikasa Fashion
78	Dongguan Shitian Advertising Decoration Co., Ltd.
79	dongguanshiyongshengwanjushangmaoyouxiangongsi
80	DongHu_Outdoor
81	Du Du's Treasure Shop
82	EIATBF Direct
83	END
84	FOEDOY
85	G2HOME
86	GCR ONLINE
87	He Shishang
88	Her Kindness
89	home sen
90	HuanLunB
91	huasimple
92	HuYiKeJi
93	ICEBLUEOR

94	iFCOW Direct
95	Ignite ZealS
96	INDIAN BLESSING
97	Iokei
98	jiujiangyongfengshoushangmaoyouxiangongsi
99	jiuwu store
100	JSN Global Distribution
101	JunLeFeng
102	Kalindri Enterprises
103	Kalindri Sports
104	kelujidianzishangwu
105	KMG
106	kunmingpinyingleishangmaoyouxiangongsi
107	lankaoxianyupindianzishangmaoyouxiangongsi
108	LAOQU
109	Li Zhendong
110	lightinthedark
111	LIU XIAN YI
112	LiuMelinda
113	liyufedianpu
114	LONTOM
115	LUCKKY 【fast delivery】
116	Luminouss
117	Meizihuazhuangpin
118	Minquan County Lilith E-Commerce Co., Ltd.
119	Mioen
120	Mixxii
121	ModiBooth Shop
122	MyGothikShop
123	Ncoe
124	NEVRTP
125	nuoyasi
126	OCCOKO ✈ (Fast delivery 5-20 days)
127	Parieo
128	PM Squared
129	QIOKKKC
130	RIGHTPARTS
131	runzishang
132	Shangqiu Xingye Electronic Commerce Co., Ltd.
133	SHenT
134	shijichuanshi(beijing)maoyiyouxiangongsi
135	Shipin Xiaoshoubu
136	shunfeng shunshui store
137	Sinmora pet
138	smilll
139	SOYUOI official store
140	Sunhin el
141	szxhy

142	tengzhoushiruolanxidianzishangmaoyouxiangongsi
143	TOPERFECT
144	Uooser
145	Vincentdianpu
146	wang jian fenus
147	WANG XIN KOU
148	We also have
149	wowmolly
150	xiaoxiaojiahao
151	XK28
152	Xshelley bgkentan
153	xuanxiutang
154	xx-shop
155	XYDIANPU
156	Yamsh
157	YanPing Gao
158	YaWoKe
159	Yeelua
160	yijaimei
161	yin-ling
162	ZhiJiangShiLiangSanCiShangMaoYouXianGongSi
163	ZHONG SHENG
164	ZhongDeXin
165	ZhuRao
166	ZiFanBaiHuo
167	Zmkm